



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/643,055

08/18/2003

Thomas K. Reusche

14809US02

3111

23446 7590 06/12/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

NGUYEN, TRINH T

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1 The opinion in support of the decision being entered today is *not* binding
2 precedent of the Board
3

4 UNITED STATES PATENT AND TRADEMARK OFFICE
5

6
7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES
9

10
11 *Ex parte* THOMAS K. REUSCHE, DONALD B. OWEN, and
12 JOE BLAHNIK
13

14
15 Appeal 2006-3101
16 Application 10/643,055
17 Technology Center 3600
18

19
20 Decided: September 4, 2007
21

22
23 *Before:* MURRIEL E. CRAWFORD, HUBERT C. LORIN and ANTON W.
24 FETTING, *Administrative Patent Judges.*
25

26 CRAWFORD, *Administrative Patent Judge.*
27

28
29 DECISION ON APPEAL
30

31 STATEMENT OF CASE

32 Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection
33 of claims 1 to 12, 14 to 25, and 27 to 34. We have jurisdiction under
34 35 U.S.C. § 6(b) (2002).

1 Appellants invented a water agitation system having an agitator with
2 at least one agitation member outwardly extending from a lateral surface of
3 the distal end of the drive shaft (Specification 1).

4 Claim 1 under appeal reads as follows:

5 1. A water agitation system configured to be positioned within a water
6 retention structure configured to receive and retain water, said system
7 comprising:

8 a main body positionable within a water retention area of the water
9 retention structure, said main body comprising a base removably
10 interconnected to a cover, and an inner compartment defined between said
11 base and cover; and

12 an agitator operatively connected to a motor housed within said main
13 body, said agitator connected to a distal end of a drive shaft that extends
14 outwardly from said main body, said agitator comprising at least one
15 *agitation member outwardly extending from a lateral surface of said distal*
16 *end of said drive shaft*, said motor configured to rotate said agitator in order
17 to stir water retained within the water retention structure, wherein
18 said at least one agitation member is operable to stir the water within the
19 water retention structure,

20 said motor being positioned within said inner compartment. (emphasis
21 added.)

22 The Examiner rejected claims 1 to 5, 7, 8, 10, 12, 14 to 18, 20, 21, 23,
23 25, 27 to 30 and 33 under 35 U.S.C. § 102(b) as being anticipated by
24 Kajisono

25 The Examiner rejected claims 6, 19 and 31 under 35 U.S.C. § 103 as
26 being unpatentable over Kajisono in view of Official Notice.

27 The Examiner rejected claims 9, 22 and 32 under 35 U.S.C. § 103 as
28 being unpatentable over Kajisono in view of Wright.

The Examiner rejected claims 11, 24 and 34 under 35 U.S.C. § 103 as being unpatentable over Kajisono in view of Earhart.

In Each of the rejections, the Examiner relies on Kajisono for disclosing a water agitation system including an agitation member outwardly extending from a lateral surface of a distal end of a drive shaft.

The prior art relied upon by the Examiner in rejecting the claims on appeal are:

Earhart	US 3,836,130	Sep. 17, 1974
Wright	US 4,166,086	Aug. 28, 1979
Kajisono	US 5,336,399	Aug. 9, 1994
Bengel	US 5,465,279	Nov. 7, 1995

Appellants contend that Kajisono does not disclose or suggest an agitation member outwardly extending from a lateral surface of the distal end of the drive shaft.

ISSUE

The only issue is whether Appellants have shown that the Examiner erred in finding that Kajisono discloses or suggests an agitation member outwardly extending from a lateral surface of the distal end of the drive shaft.

FINDINGS OF FACT

Kajisono discloses an apparatus for purifying and activating water which includes a drive shaft 30 having a capsule 32 attached at a distal end thereof (Kajisono, col. 3, ll. 31 to 33). The capsule 32 has apertures 31 and

1 impellers at an end thereof to cause increased negative pressure (Kajisono,
2 col. 4, ll. 40 to 50; Figure 7). The impellers do not extend from the drive
3 shaft 30 but from the capsule 32. In addition, the impellers do not extend
4 from a lateral surface but rather extend from the end of the capsule 32.

5
6 DISCUSSION

7 We will not sustain any of the rejections of the Examiner because all
8 of the rejections rely on Kajisono for the claim limitation of an agitation
9 member outwardly extending from the lateral surface of the distal end of the
10 drive shaft found lacking in the Kajisono reference (see Findings of Fact).

11 The decision of the Examiner is reversed.

12 REVERSED

13
14
15
16
17 JRG

18
19 MCANDREWS HELD & MALLOY, LTD
20 500 WEST MADISON STREET
21 SUITE 3400
22 CHICAGO, IL 60661
23